

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 1:24-cv-20522-LEIBOWITZ/ELFENBEIN

**VICTOR PORFIRIO BALOA DIAZ**  
**and PORFI MUSIC, LLC,**

*Plaintiffs,*

*v.*

**EDI KORTA, LLC, et al.,**

*Defendants.*

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**ORDER ADOPTING MAGISTRATE’S REPORT AND RECOMMENDATION**

THIS MATTER was referred to United States Magistrate Judge Marty Fulgueira Elfenbein for a Report and Recommendation (“the R&R”) on Defendants’ Motion to Dismiss [ECF No. 15]. [ECF No. 26]. Judge Elfenbein has since issued her R&R, recommending that the Court grant Defendants’ Motion to Dismiss and dismiss Plaintiffs’ Complaint without prejudice. [ECF No. 29]. Neither party has submitted objections, and the time to do so has passed. After careful review of the filings, the applicable law, and the record, the Court adopts the R&R [ECF No. 29] in its entirety.

“In order to challenge the findings and recommendations of the magistrate judge, a party must file written objections which shall specifically identify the portions of the proposed findings and recommendation to which objection is made and the specific basis for objection.” *Macort v. Prem, Inc.*, 208 F. App’x 781, 783 (11th Cir. 2006) (cleaned up). The objections must also present “supporting legal authority.” L. Mag. J.R. 4(b). Once a district court receives “objections meeting the specificity requirement set out above,” it must “make a de novo determination of those portions of the report to which objection is made and may accept, reject, or modify in whole or in part, the findings or recommendations made by the magistrate judge.” *Macort*, 208 F. App’x at 783–84 (cleaned up). To


the extent a party fails to object to parts of the magistrate judge's report, those portions are reviewed for clear error. *Id.* at 784 (cleaned up).

The parties have not submitted any objections to the R&R, and the time to do so has passed. As such, the Court has reviewed the R&R for clear error only. Upon this review, the Court finds that the R&R is correct, thorough, and compelling. The Court finds no clear error and adopts the R&R in its entirety.

Accordingly, it is hereby **ORDERED AND ADJUDGED:**

1. Magistrate Judge Elfenbein's Report and Recommendation [ECF No. 29] is **AFFIRMED AND ADOPTED.**
2. Defendant's Motion to Dismiss [ECF No. 15] is **GRANTED.** Plaintiffs' Complaint [ECF No. 1] is **DISMISSED WITHOUT PREJUDICE.**
3. **No later than August 16, 2024,** Plaintiffs shall file a motion for leave to file an Amended Complaint, with a copy of the Amended Complaint attached that cures the deficiencies identified by Magistrate Judge Elfenbein in the Report and Recommendation. If Plaintiffs fail to do so, the Court may dismiss and close this case.
4. Plaintiffs' Unopposed Motion for Extension of Time to Amend Complaint [ECF No. 30] is **DENIED AS MOOT.**

**DONE AND ORDERED** in the Southern District of Florida on August 1, 2024.

  
**DAVID S. LEIBOWITZ**  
**UNITED STATES DISTRICT JUDGE**

cc: counsel of record